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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re I.C., a Person Coming Under the
Juvenile Court Law.

B207655

(Los Angeles County
Super. Ct. No. CK69093)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.T.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County,
Debra Losnick, Commissioner. Affirmed.

Eva E. Chick, under appointment by the Court of Appeal, for Defendant and
Appellant.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County
Counsel, and Melinda White Svec, Deputy County Counsel, for Plaintiff and Respondent.

A mother appeals from the jurisdictional and dispositional orders of the juvenile court removing mother's daughter from her custody after finding true allegations that mother's conduct and limited ability to care for her daughter placed the child at risk of neglect. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Mother's status as a dependent of the juvenile court

I.C., the child who is the subject of this appeal, was born in June 2006. I.C.'s mother, appellant A.T. (Mother), was 16 years old when I.C. was born and a dependent of the juvenile court.¹ Mother was pregnant when she was detained in December 2005 and placed at St. Anne's Maternity Home. Initially, Mother did well in that placement and received numerous commendations. However, after I.C. was born, the relationship between Mother and the staff at St. Anne's deteriorated, and Mother received a number of "incident" reports for her inappropriate and increasingly uncooperative and hostile behavior toward the staff. The staff at St. Anne's and Mother became quite frustrated with one another. Mother also began leaving St. Anne's without permission (going "AWOL"), taking I.C. with her. She always returned within a few hours or a couple of days.

I.C. is removed from – and quickly restored to - her minor mother's care

On May 1, 2007, DCFS removed I.C. from Mother's care and placed her in a foster home based on reports from St. Anne's that Mother was providing deficient care to the child. I.C. was returned to her mother two days later. On May 3, 2007, St. Anne's gave DCFS seven days' notice to have Mother removed. DCFS sought but was unable to find an alternative placement for Mother and child, so they stayed at St. Anne's.

¹ In November 2005, after a history of referrals to respondent Department of Children and Family Services (DCFS) dating back to 1992, Mother and her three siblings were removed from the care of I.C.'s maternal grandmother (Grandmother), based on allegations Grandmother was using and selling drugs in the family's home, domestic violence, neglect, and sexual abuse of Mother by one of Grandmother's adult drug-using companions, J.C. (Father), which resulted in the birth of I.C. Father is not a party to this appeal.

Meanwhile, the relationship between Mother and St. Anne's continued to deteriorate. St. Anne's escalated its calls to DCFS and the police regarding Mother, who remained hostile and uncooperative both with S.C., the DCFS children's social worker (CSW) assigned to her case, and St. Anne's, and continued repeatedly to go AWOL, taking I.C. along.

The first petition is dismissed for lack of jurisdiction

On July 13, 2007, DCFS detained I.C. again and filed a petition under Welfare and Institutions Code section 300, subdivisions (b) and (g).² Among other things, DCFS alleged Mother repeatedly ran away from St. Anne's without making appropriate arrangements for her child's care, and was aggressive, assaultive and hostile with staff members at whom she regularly hurled profanities in her daughter's presence. The petition also alleged that Mother once brought I.C. back to St. Anne's with a highly-contagious rash (impetigo) but refused to cooperate with St. Anne's staff regarding medical treatment for the rash. Another time, Mother refused to seek medical care for I.C., even though she refused to eat and vomited all day. DCFS also alleged that I.C.'s linens were frequently soiled and that the child was sometimes found in a state of poor physical hygiene. I.C. was placed in a foster home in Moreno Valley. Mother was placed in a foster home in Ontario.

A month later, the July 2007 petition was dismissed with prejudice. The dismissal occurred after the court found that, overall, Mother had provided good care to I.C. for which she had received numerous commendations from St. Anne's. In addition, the fact that Mother went AWOL from her own placement did not, by itself, constitute grounds to assert jurisdiction over I.C. Mother had always supervised I.C. by taking her with her, and there was insufficient evidence to support the allegations either that Mother had failed to supervise or failed to obtain medical care for I.C. while at St. Anne's. Moreover, Mother's use of profanities in front of I.C. did not constitute abuse or neglect.

² All further statutory references are to the Welfare and Institutions Code.

The court ordered that I.C. was “to remain with Mother.” However, Mother’s foster parents would not allow I.C. to live with Mother in their home. The juvenile court suggested DCFS and Mother sign a Voluntary Family Reunification (VFR) agreement and that Mother agree to let I.C. stay in her current placement for up to 30 days. That VFR was never signed.

The operative petition is filed

DCFS filed the operative section 300 petition on September 7, 2007. In pertinent part, it alleged Mother’s whereabouts were unknown, and that she had failed to make a plan for her child’s ongoing care and supervision, or to provide I.C. with the basic necessities of life. (§ 300, subd. (b).) At the time the petition was filed, Mother had been absent from her foster placement for several weeks, and no one knew where she was or how to reach her.

In connection with the detention hearing, DCFS reported Mother had failed to sign the VFR agreement before she went missing from her foster placement on August 19, 2007. Her failure to do so forced DCFS to put its search for a joint placement “on hold.” Because I.C. herself was no longer a juvenile court dependent, she was technically in Mother’s custody when Mother went missing. Accordingly, DCFS claimed that, because Mother did not sign the VFR agreement, since August 19, I.C. had been left stranded without parental consent in the event she required emergency medical care and had been left in a placement without legal jurisdiction or funding. Mother did not attend I.C.’s September 9, 2007 detention hearing. A pretrial resolution conference (PRC) was scheduled for October 19, 2007.

On September 27, 2007, Mother appeared for a hearing at which her own case as a juvenile court dependent was terminated. She was now 18 years old and had no desire for further involvement with or services from DCFS. Mother said she was staying with a friend.

DCFS submitted a combined jurisdiction/disposition report for the October 2007 PRC. Mother had been missing from her foster placement for over five weeks. Mother

told DCFS she went back to her foster home on August 19 after being out on an afternoon pass. Even though she had called to say she would be late, her foster parents had refused to let her in. Since that time, she had tried to return five times, but her foster parents would not take her back. It was Mother's belief that I.C. would be restored to her custody once she emancipated from the dependency system. In the meantime, Mother was not worried about I.C.'s welfare. She believed her daughter would be "okay" in foster care while she tried to find them a place to live. Mother said that, while she was AWOL, she called DCFS several times trying unsuccessfully to reach her CSW and left her cell phone number for him and his supervisor. No one called her back.

Mother's foster parents confirmed Mother left their home on a four-hour pass on August 19, 2007. Later, someone called to say Mother would be late and hung up. The foster parents waited for Mother to return and, when she did not, went to bed at 10:00 p.m. An hour later, they were awakened by someone banging on their front door saying they should let Mother in. The foster parents did not recognize the person talking (and who had jumped their fence) and refused to open the door. The foster father saw a car with four people inside. He called the police; if Mother had been there, the foster father planned to let her in when the police arrived. The people in the car waited a while but drove off before the police arrived.

E.O., the social worker from the agency caring for I.C., told DCFS Mother contacted her three or four times between August 20 and August 23, 2007 in an attempt to arrange visits with I.C. Each time, Mother refused to disclose her whereabouts or be picked up. Twice, Mother told E.O. she would get a ride to visit I.C. at her foster home, but she never showed up. DCFS reported Mother refused to give any social worker a phone number at which she could be reached or to disclose her address.

I.C.'s foster mother told DCFS Mother called her on August 24, 2007 to set up a visit. Mother did not ask about I.C.'s health or well-being. The foster mother told Mother that, because she was AWOL, she had to contact DCFS to arrange visits. Mother did not call again.

In its report, DCFS acknowledged that Mother loved I.C., wanted to be reunited with her daughter as soon as possible, and was hoping to get her own apartment or move back into her family home (left in trust to her and her sisters by their maternal grandmother). Mother was not known to abuse drugs or alcohol. Mother told DCFS she had a job as a babysitter and would soon be working in the stables at a racetrack. Nevertheless, DCFS noted that, during her five-week absence, Mother had not contacted DCFS to request visits and had not inquired about her daughter's well-being. DCFS opined that Mother's belief that I.C. would be "okay" in her absence demonstrated a lack of understanding about or a concern for her child's needs. DCFS observed that, while Mother's behavior might be no worse than a typical teen's, it was not conducive to responsible, safe parenting. In addition, Mother had a history of refusing to cooperate with social workers and of going AWOL, and DCFS had no means by which to assess Mother's current living conditions, which was necessary in order to release I.C. to her care. There was a high risk of abuse and neglect to I.C. posed by Mother's failure to make provisions for her daughter's needs and because Mother lacked safe housing. Accordingly, DCFS recommended I.C. remain in foster care and that Mother continue to have monitored visits until she obtained stable, safe housing and was ready for family preservation services. Mother disagreed with DCFS's recommendation. The court set a contested hearing on jurisdictional issues for December 6, 2007. It also ordered DCFS to arrange a visitation schedule for Mother of three monitored visits a week.

In its report for the December 6, 2007 hearing, DCFS noted that distance, scheduling, transportation problems, and other logistics made it impossible to accommodate three visits a week for I.C. and Mother. Mother was told about the problem. Rather than disrupt I.C. by changing her placement, Mother agreed to limit her visits to weekly visits of two hours each. I.C.'s foster mother reported Mother's visitation was consistent. The visits went well, although I.C. behaved "aggressively" for a day or two after visits with her mother. I.C. was reportedly stable and thriving in her foster placement. DCFS reported that Mother was engaged and had found an apartment. The CSW told Mother to call him to arrange an inspection of her apartment before the

December 6 hearing. He also requested identifying information for Mother's fiancé, whom he said would have to come to DCFS and be fingerprinted. Mother did not contact the CSW, and her fiancé was not fingerprinted. DCFS recommended I.C. remain in foster care and that Mother be given reunification services, including individual counseling and parenting classes, and that her visits remain monitored.

The contested jurisdictional hearing was conducted on December 6, 2007. At that hearing, Mother testified no one ever talked to her about a VFR agreement when she was in foster care. It was her understanding that I.C. would stay in the foster home in Moreno Valley until DCFS found a joint placement. Mother testified that, when her foster parents refused to let her back in, she went to stay with a friend in Long Beach. She contacted E.O. and I.C.'s foster mother. She also left messages and her number for her CSW and his supervisor but never received a return call. Mother said that, for the two weeks preceding the hearing, she had been renting a room in Duarte and wanted I.C. released to her care at that address. The CSW did not contact her about inspecting her place until December 5, 2007.

Mother testified she had believed I.C. would be restored to her custody without DCFS intervention once she was emancipated, because she had provided good care to her daughter. She said it was she, not St. Anne's or her CSW, who addressed I.C.'s medical needs, and she provided I.C.'s foster parents with the child's clothing, diapers and baby wipes. Mother was concerned because I.C. was sick and being medicated for asthma with steroids and an inhaler and was being left in day care 11 hours a day. Mother said she was engaged but was not living with her fiancé. I.C.'s paternal uncle was willing to pay the cost of a daycare facility in Mother's neighborhood.

Mother's attorney sought dismissal of the petition. She argued the allegation that Mother had endangered I.C. by going AWOL from her own placement and leaving her without making a plan for her ongoing care and supervision was not true. At the time Mother left her own foster home, I.C. was in the same foster home in which DCFS placed her when the July 2007 petition was dismissed. Mother simply planned to leave I.C. there until she could find a place for them both, since DCFS had been of no use in that

regard and her own foster parents would not let I.C. stay at their house. Thus, it was DCFS, not Mother, that left I.C. in a foster home. Moreover, the attorney argued there was no evidence Mother's ability to care for I.C. was limited.

The juvenile court denied the motion and sustained the petition, with minor modifications. The court observed that, once the July 2007 petition was dismissed, legal custody of I.C. reverted to Mother. The court found that Mother had not made an appropriate plan for I.C. by leaving her in foster care, and "without a Medi-Cal card, and without a parent to call and inquire about her" while Mother was AWOL. The court continued the dispositional phase of the contested hearing to mid-December 2007³ in order to obtain information regarding Mother's plan for daycare for I.C. while she was at school or work and where Mother planned to live with her daughter.

The dispositional hearing commenced in mid-April 2008. DCFS submitted several progress reports in advance of that hearing. In January 2008, DCFS reported Mother told her CSW she was renting a room in Duarte but wouldn't disclose the address because her landlord did not want DCFS at the house. She said she expected to move elsewhere by February. Mother did not have a phone; she used a neighbor's number. Mother had not shown up at DCFS's offices to retrieve her bus pass for two months. DCFS had learned Mother may have brought her fiancé on a visit with I.C. in January even though he was not fingerprinted by DCFS until March 2008.⁴

In reports submitted in March 2008, DCFS reported that Mother had consistently been visiting I.C. once a week for two or three hours at a time. The visits went well although it took I.C. a while to warm up, and I.C. occasionally checked to be sure her foster mother was still there before returning to play with Mother.

³ It was later continued several more times for reasons not relevant here.

⁴ Mother denied having brought her fiancé to any visits before he was fingerprinted and said the foster mother, who had told DCFS about the man, had seen her talking to someone she just met. I.C.'s foster mother, who observed the interaction, did not believe Mother's representation: Mother and the man acted too familiar with one another to have just met. In addition, the foster mother saw them share food and leave together after the visit.

By the time the contested dispositional hearing commenced on April 17, 2008, Mother was living with her fiancé. Their apartment was leased by and paid for by the fiancé's parents because Mother had no credit. DCFS reported there was gang violence in the building in which Mother's apartment was located; three people had recently died after a gang shooting. Mother confirmed the gang violence but said it had stopped. Building management had implemented new security measures, and police patrolled regularly. Even so, in mid-March, Mother told DCFS she and her fiancé were moving because the building was too dangerous; gang members drove by and shot randomly into apartments.

DCFS also reported that Mother's fiancé had an extensive criminal history which included three felony convictions and numerous arrests on drug charges, kidnapping and carjacking, among other things. The fiancé told DCFS he had once done drugs and belonged to a gang but was no longer involved in any illegal activities. He had completed a drug treatment program and had been sober for 16 months.

I.C.'s father told DCFS Mother harassed him. She had harassed him so much that he was forced to move and to quit at least one job. His address had to be kept confidential from Mother. He also said Mother told him she was using drugs and that, as a former drug user, he recognized signs indicating that what Mother said was true. The father said that, after a hearing in early March, Mother told him she was pregnant and that she had used drugs two days before. When testifying at the dispositional hearing, I.C.'s father admitted he and Mother harassed one another. He also admitted telling Mother he would do everything he could (short of lying to the juvenile court) to ensure she did not get custody of I.C. because of the child's problem with impetigo and Mother's tendency to go AWOL. He testified that, after the previous hearing, Mother asked him to get custody of I.C. so she could get the child from him; he refused.

At DCFS's request, Mother readily agreed to submit to an on-demand drug test; it was negative. Mother said she tried meth once at Grandmother's house before her detention but never did drugs again. She claimed Father stalked her, regularly driving by her apartment honking his horn. Indeed, she claimed I.C.'s father harassed her so much

she was forced to quit school because of his false reports that she was selling drugs. She said he had once tried to run her fiancé over. The CSW had asked Mother on March 18, 2008 if she was pregnant. She said “maybe.” At the hearing a month later, Mother testified she still did not know whether she was pregnant. Mother was not currently working or attending school. She had taken three parenting classes.

I.C.’s foster mother told DCFS Mother maintained consistent visitation with I.C. and, lately, had been polite and cooperative. Sometimes Mother brought crackers; usually she brought candy. The foster mother told DCFS that I.C.’s father said Mother was a drug user, but she saw no signs of that. The foster mother was worried: I.C.’s father said he wanted custody of I.C. Mother also wanted him to get custody so she could take I.C. back.

The CSW testified that he had known Mother since she was two years old due to his involvement in the proceedings in which she had been a juvenile court dependent. Mother had never cooperated with him or the staff at St. Anne’s. Lately, her conduct had improved in some respects — she was more polite and cooperative — but not others — she remained evasive and uncommunicative. He did not trust she was being truthful, and he thought it was possible Mother and Father were devising a plan whereby Father would obtain custody of I.C. then pass the child off to Mother. However, given the level of hostility between the parents, the CSW also thought it possible Father was trying to get custody of I.C. “just to piss [Mother] off.”

The hearing was continued to May 1, 2008 to permit DCFS to provide the court an update on the parents’ visitation, investigate Father’s housing, and address the parents’ plans for daycare for I.C., in the event the child was placed with either of them.

When the hearing recommenced, DCFS recommended I.C. not be released into the custody of either parent. It recommended that I.C. remain in her placement and that Mother continue to have monitored visitation. DCFS observed that Mother had a long history of being hostile and uncooperative with DCFS representatives and other authority figures. Mother also had a demonstrated history of exercising poor judgment and placing her daughter at risk, and she and I.C.’s father had a volatile, intermittently hostile

relationship with each other, and each had recently levied allegations of drug abuse and domestic violence against the other. The parents were only occasionally on speaking terms. In addition, Mother's daycare plan for I.C. was to leave her toddler with her fiancé, who had an extensive criminal history.⁵ Finally, both Mother and her fiancé were completely dependent on his parents' largesse for their housing and basic necessities.

At the hearing, Mother's fiancé testified he was involved in gang activities until he was 16 years old. Since then, he had changed his lifestyle, moved away and made new friends, and was no longer involved with a gang. He had known Mother since 2003, and they had been a couple since August 2007. He was available to help Mother with I.C.'s daycare, when necessary. The fiancé testified he and Mother had been living together for about seven months. However, he did not know if she was working at the time or when she had last done so. He still did not know if Mother was pregnant.

At the conclusion of the hearing, Mother's attorney moved again to have the petition dismissed, arguing the court lacked substantial evidence to support the assertion of jurisdiction. The court denied the motion. The court also denied Mother's request to release I.C. to her custody, noting Mother had exercised poor judgment in the past. Specifically, instead of making efforts to resume custody after the first petition was dismissed, she went missing without making provisions for I.C.'s care. The court found Mother had not yet learned the responsibilities of parenting and caring for a child. The court ordered that I.C. be released to her father's care on a self-executing order, effective June 19, 2008. That order has now been effectuated. Mother was ordered to participate in individual counseling and to attend parenting classes, and given monitored visitation three hours per week. This appeal followed.

⁵ I.C.'s father wanted his daughter to live with him, his girlfriend and her sons in their one-bedroom apartment. (The boys slept in the bedroom, the adults in the front room, and the dining area would be turned into a bedroom for I.C.) I.C.'s father, who worked the night shift at a warehouse, planned to take I.C. to one of two daycare facilities in his neighborhood while his girlfriend was at work and her sons were at school.

DISCUSSION

Mother appeals from the juvenile court's order sustaining the petition. She asserts the juvenile court lacks jurisdiction over I.C. because the allegations of the petition fail to demonstrate a prima facie case that I.C. was at substantial risk of suffering "serious" physical harm or illness as a result of Mother's conduct. She also challenges the jurisdictional findings arguing there is insufficient evidence to support the finding that I.C. was suffering or was at "substantial" risk of suffering "serious" harm. Finally, Mother appeals from the order removing I.C. from her custody. She contends DCFS failed to show, by clear and convincing evidence, that she posed a "substantial danger" to her daughter's well-being and compounded the error by failing to consider any method short of removing I.C. from her physical custody. None of these contentions has merit.

1. Standard of review

We review the jurisdictional findings and disposition orders of the juvenile court for substantial evidence. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820 (*Rocco M.*)). Wherever possible, we resolve evidentiary conflicts and indulge all legitimate inferences in favor of the juvenile court's orders. (*Ibid*; *In re David M.* (2005) 134 Cal.App.4th 822, 828.)

2. The petition states a prima facie case, and the evidence supports the jurisdictional finding

Mother contends the allegations of count (b)(1) in the sustained petition are insufficient to support juvenile court jurisdiction, because they do not demonstrate I.C. was suffering, or was at "substantial" risk of suffering, "serious physical harm or illness" in her care.⁶

⁶ We need not reach DCFS's contention that Mother forfeited her right to raise a facial challenge to the petition by not filing a written demurrer below. The record reflects that, although she never filed a written motion, Mother repeatedly challenged the adequacy of the charging allegations. On each occasion, the trial court considered but rejected Mother's arguments and stated its reasons for doing so. Courts differ as to whether such objections adequately preserve the issue for purposes of appeal. (See *In*

As sustained by the juvenile court, count (b)(1) of the petition alleges that “[o]n or about 8/20/07, Mother [] left the child, [I.C.], with an unrelated individual and then became whereabouts unknown to that individual, mother’s foster parent and DCFS. Further, mother has a limited ability to care for the child. Mother’s conduct and limited ability to care for her child places her child at risk of neglect.”

As pertinent here, section 300 authorizes dependency jurisdiction when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of [her parent’s] failure or inability . . . to adequately supervise or protect the child, . . . [or] to provide the child with adequate . . . medical treatment” (§ 300, subd. (b).) The facts necessary to show neglect within the meaning of subdivision (b) are: (1) a parent’s neglectful conduct; (2) causation; and (3) serious physical harm or illness to the child, or a substantial risk of such harm or illness. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194; *Rocco M.*, *supra*, 1 Cal.App.4th at p. 820.) “Subdivision (b) means what it says. Before courts and agencies can exert jurisdiction under section 300, subdivision (b), there must be evidence indicating that the child is exposed to a *substantial* risk of *serious physical* harm or illness.” (*Rocco M.*, *supra*, 1 Cal.App.4th at p. 823.)

To determine if this test is met, evidence of a parent’s past conduct may be probative of current conditions. However, the pivotal inquiry “under section 300 is whether the circumstances *at the time of the hearing* subject the minor to a defined risk of harm.” (*Rocco M.*, *supra*, 1 Cal.App.4th at p. 824.) This inquiry is pertinent because a child “shall continue to be a dependent child . . . only so long as is necessary to protect the child from [the defined] risk” (§ 300, subd. (b).) Thus, a parent’s past infliction of physical harm, standing alone, is insufficient to establish a substantial risk of physical

re Janet T. (2001) 93 Cal.App.4th 377, 386, fn. 4; *In re Alysha S.* (1996) 51 Cal.App.4th 393, 396-397; but see *In re Shelley J.* (1998) 68 Cal.App.4th 322; *In re S.O.* (2002) 103 Cal.App.4th 453, 460; *In re James C.* (2002) 104 Cal.App.4th 470, 481.) In this case, the dispute is academic. If, as here, jurisdictional findings are supported by substantial evidence, any failure of the petition to state a cause of action becomes harmless error. (See *In re Athena P.* (2002) 103 Cal.App.4th 617, 627-628.) The only real issue to be resolved is the sufficiency of the evidence at the jurisdictional hearing. (*Ibid.*)

harm, absent some “reason to believe the acts may continue in the future.” (*In re Jennifer P.* (1985) 174 Cal.App.3d 322, 326.)

Mother insists the allegations of the petition are inadequate to state any basis justifying assertion of juvenile court jurisdiction. First, she maintains she did not leave I.C. in foster care, DCFS did. Second, Mother claims she could not have abandoned I.C. when she went AWOL. Even though the juvenile court technically returned I.C. to her custody, she was never permitted to have physical custody of I.C. in her own foster home. We disagree.

As noted in *Rocco M.*, the “[c]ases finding a substantial physical danger tend to fall into two factual patterns. One group involves an identified specific hazard in the child’s environment — typically an adult with a proven record of abusiveness. [Citations.] The second prong involves children of such tender years that the absence of adequate supervision and care poses an inherent risk to their physical health and safety. [Citations.]” (*Rocco M.*, *supra*, 1 Cal.App.4th at p. 824, italics omitted.) I.C. obviously falls squarely within the second category of children at risk. She is a very young child and was only ten months old when her mother went missing.

Mother was AWOL for five weeks. No one knew where she was. During that time, she simply assumed her [one year old] would be “okay” where she was. She made no provisions for her daughter’s care, even though, by her own admission, I.C. has a worrisome case of asthma. Had I.C. required medical care in Mother’s absence, no one was authorized to make such decisions and no one knew how to reach Mother. Moreover, during her five-week absence, Mother called I.C.’s foster mother one time. Even then, she never asked about her daughter’s health or well-being, and she never followed up when told to arrange visits through DCFS. When the petition was filed, Mother was homeless, and her whereabouts were still unknown. This backdrop provides ample support for the allegation that Mother’s “conduct and limited ability to care for her child place[d] her [very young] child at risk of neglect.”

The evidence supporting our conclusion that the petition states a *prima facie* case also supports the jurisdictional finding that I.C. came within the provisions of section

300, subdivision (b). The pivotal question under section 300 is whether circumstances extant at the time of the jurisdictional hearing subject the child to a defined risk of harm. (*Rocco M.*, *supra*, 1 Cal.App.4th at p. 924.) The statute requires the existence of substantial evidence that the child either is in immediate danger or at substantial risk of danger. (*Id.* at pp. 820-821, 825.)

The evidence of Mother's conduct and neglect detailed above would suffice to support the jurisdictional findings. But there is more. The court also found Mother had a limited ability to provide and care for I.C. For example, at the jurisdictional hearing, Mother testified she had a place to live but her landlord would not allow DCFS to assess its suitability for a child. Mother planned to move but did not say where. In addition, although Mother said she was supposed to start working the following week, she did not say what she would be doing or what her hours would be. She expected I.C.'s paternal uncle to pick up the cost of her daughter's daycare but did not know the name of the facility she was planning to use and had not gone to check it out. Thus, not only had Mother blithely left her daughter in a stranger's care for five weeks without making provisions for her care, without vesting anyone with authority to make critical decisions, and without telling anyone how to get in touch with her in case of an emergency, Mother also lacked stable living arrangements, had no source of income, and had an ill-defined plan for I.C.'s care. The record contains ample evidence to support the findings that Mother's conduct and limited parenting abilities placed I.C. at substantial risk of neglect.

3. *The juvenile court did not err by removing I.C. from Mother's custody*

Dependency law aims to keep children in their natural parents' care where it is safe to do so. (*In re Jasmine G.* (2000) 82 Cal.App.4th 282, 284-285.) A juvenile court's dispositional order removing a child from her custodial parent must be made on clear and convincing evidence that there would be a substantial danger to the child if returned to her parent's care. (§ 361, subd. (c); *In re Bernadette C.* (1982) 127 Cal.App.3d 618, 624.) A child's removal from parental custody is warranted only if he or she is exposed to a real risk of harm, and there are no less severe alternatives to removal. (*In re*

Jasmine G., *supra*, 82 Cal.App.4th at p. 284; *In re Jason L.* (1990) 222 Cal.App.3d 1206, 1216.) As stated above, our review of such orders is conducted under the substantial evidence standard. (*In re David M.*, *supra*, 134 Cal.App.4th at p. 828; *In re Mark L.* (2001) 94 Cal.App.4th 573, 580.) To affirm, we must find the record contains sufficient evidence to support the juvenile court's determination that, at the time of the dispositional hearing, clear and convincing evidence showed returning I.C. to Mother's custody posed too great a risk to the toddler, and no other reasonable means existed to prevent removal. We have no difficulty reaching that conclusion in this case.

The disposition hearing began 5 months after the jurisdictional hearing, 19 months after the petition was filed, and took over 2 months to complete. Despite the lapse of time and her emancipation, Mother failed to demonstrate the ability to provide her daughter with stability and the basic necessities of life. At the time of the disposition hearing, Mother had been living with her fiancé for seven months in an apartment for which his parents paid. They could withdraw their financial support at any time. Mother conceded she could not pay rent herself, and there is no evidence she made any effort to try to obtain a job or the means to do so. In addition, Mother told DCFS she was concerned because the apartment building was in a dangerous location. Three gang-related deaths had recently occurred, and gang members sometimes drove by the building randomly shooting into apartments. Still, Mother chose to remain in the building. The court did not err in concluding Mother had not yet demonstrated the ability to provide a safe or stable home.

In addition, DCFS, I.C.'s attorney and the juvenile court each expressed strong concerns about Mother's long-standing failure or refusal to cooperate with DCFS, her evasiveness, her lack of credibility, and the lack of credibility of those around her. For example, I.C.'s attorney pointed out that Mother was engaged to marry a man with whom she had lived for seven months. But her fiancé was unable to answer such basic questions as when Mother last worked, whether she was currently working, or whether she had ever worked while they were together. In addition, the fiancé did not know if Mother was pregnant and had not bothered to find out why she missed a doctor's

appointment made after the April 2008 hearing for the purpose of determining whether Mother was pregnant. In addition, although Mother told the court her daycare plan had changed and I.C. would stay with her fiancé while she was out, he testified only that he would “probably” watch I.C. and was “available to help,” as needed.

Similarly, the juvenile court remained concerned that Mother had not demonstrated an ability to provide adequate care for I.C. when she went AWOL for weeks after her daughter was restored to her legal custody without giving the child’s caretakers or DCFS a way to reach her. Mother admitted she had used poor judgment and been uncooperative in the past but believed she was changing now that she had a place to live, tenuous as those living arrangements were. The court, however, found no sign that Mother was any less evasive than in the past or that she had internalized the lessons she was taught during almost two years at St. Anne’s regarding appropriate methods and responsibilities of parenting and caring for a child. This evidentiary record provides sufficient support for the juvenile court’s finding that I.C. was at risk of harm if placed in her Mother’s unstable care and that no alternative short of removal would suffice.⁷

⁷ Mother contends that, even if jurisdiction is warranted, placement of I.C. with her father was not. But, this issue is not relevant to the question of whether the record contains sufficient evidence necessitating the child’s removal from Mother’s care. In any event, Mother has conceded this point. At the dispositional hearing, she testified that if she could not have custody of I.C., she would rather the child’s father be awarded custody than that she remain in the system.

DISPOSITION

The orders of the juvenile court are affirmed.

NOT TO BE PUBLISHED

WEISBERG, J.*

We concur:

MALLANO, P.J.

ROTHSCHILD, J.

*Retired Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.